

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 33 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 20-5-2-7 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) A school
5 corporation, **including a school township**, shall adopt a policy
6 concerning criminal history information for individuals who:
7 (1) apply for:
8 (A) ~~noncertificated~~ employment with the school corporation;
9 or
10 (B) employment with an entity with which the school
11 corporation contracts for services; or
12 (2) seek to enter into a contract to provide services to the school
13 corporation;
14 if the individuals are likely to have direct, ongoing contact with
15 children within the scope of the individuals' employment.
16 (b) A school corporation shall administer a policy adopted under
17 this section uniformly for all individuals to whom the policy applies. A
18 policy adopted under this section ~~may~~ **shall** require ~~any of the~~
19 ~~following: that~~
20 (+) the school corporation ~~may request~~ **obtain a** limited criminal
21 history information concerning each ~~applicant for noncertificated~~
22 **employment person described in subsection (a)** from a local or
23 state law enforcement agency before ~~or not later than three (3)~~
24 ~~months after~~ the applicant's employment by the school

corporation or, if the person is not employed by the school corporation, before the person has contact with a student of the school corporation.

(c) The policy adopted under this section may require any of the following:

~~(2)~~ (1) Each individual hired for ~~noncertificated~~ employment may be required at the time the individual is hired to submit a certified copy of the individual's limited criminal history (as defined in IC 5-2-5-1(1)) to the school corporation.

~~(3)~~ (2) Each individual hired for ~~noncertificated~~ employment may be required at the time the individual is hired to:

(A) submit a request to the Indiana central repository for limited criminal history information under IC 5-2-5;

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in IC 5-2-5-1(6)) that does not appear on the limited criminal history.

~~(4)~~ (3) Each applicant for ~~noncertificated~~ employment may be required at the time the individual applies to answer questions concerning the individual's limited criminal history. The failure to answer honestly questions asked under this subdivision is grounds for termination of the ~~noncertificated~~ employee's employment.

(c) If ~~an individual is required~~ there is a charge to obtain a limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history.

(d) Information obtained under this section must be used in accordance with IC 5-2-5-6.

SECTION 2. IC 20-6.1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) A school corporation may grant a teacher a leave of absence, for at most one (1) year, for a sabbatical or for disability or sick leave. The school corporation may grant consecutive leaves. A school corporation may grant partial compensation for any leave in an amount it determines. However, if a teacher:

(1) on a sabbatical serves an employer that agrees to reimburse the school corporation in whole or in part of the amount of the teacher's regular salary, the school corporation may grant full or partial compensation; or

(2) is assaulted while performing the teacher's duties:

(A) the school corporation shall grant full compensation for any resulting leave required by the teacher until the teacher's physician certifies that the teacher is capable of performing the teacher's regular teaching duties; and

(B) the compensation granted under clause (A) does not count against the teacher's sick leave or vacation leave benefits.

Any teacher who is pregnant shall be granted a leave of absence for the period provided in and subject to the provisions of section 4 of this chapter. Except where a contract is not required under IC 20-6.1-4-10 through IC 20-6.1-4-16 in any situation occurring before or after the commencement of leave, the teacher and the school corporation shall execute a regular teacher's contract for each school year in which any part of the teacher's leave is granted, and the teacher shall have the right to return to a teaching position for which the teacher is certified or otherwise qualified in accordance with the rules of the state board of education.

(b) Rights existing at the time leave commences, which arise from a teacher's:

- (1) status as a permanent teacher;
- (2) accumulation of successive years of service;
- (3) service performed under a teacher's contract pursuant to IC 20-6.1-4-9; or
- (4) status or rights negotiated under IC 20-7.5;

shall remain intact except as provided in subsection (a).

(c) During leave, the teacher may maintain coverage in any group insurance program by paying the total premium including the school corporation's share, if any, attributable to the leave period. The school corporation may elect to pay all or part of the cost of the premium as an adopted or negotiated fringe benefit to teachers on leave.

(d) During leave extending into a part of a school year, a teacher shall accumulate sick leave in accordance with the provisions of IC 20-6.1-5-6, or any salary schedule of the school corporation providing greater sick leave, in the same proportion which the number of days the teacher is paid during such year for work or leave bears to the total number of days for which teachers are paid in the school corporation.

(e) During leave of a nonpermanent teacher, the period of probationary successive years of service under a teacher's contract which is a condition precedent to becoming a permanent teacher under IC 20-6.1-4-9 shall be uninterrupted for that teacher except as provided in subsection (a). However, this probationary period shall not include an entire school year spent on leave.

(f) All or part of a leave granted for sickness or disability, including pregnancy-related disability, may be charged at the teacher's discretion to the teacher's available sick days. However, the teacher is not entitled to take accumulated sick leave days when the teacher's physician certifies that the teacher is capable of performing the teacher's regular teaching duties. The teacher is entitled to complete the remaining leave without pay.

SECTION 3. IC 20-6.1-6-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. If:**

(1) a teacher is unable to attend school because an emergency has been declared by the civil authorities in the county in which the teacher resides; and

(2) the school corporation receives verification that an emergency was declared;

the teacher shall receive contingency leave with pay for the period that the teacher was unable to attend school.

SECTION 4. IC 20-8.1-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 12.5. Reporting Requirements; Threat or Intimidation of a School Employee

Sec. 1. As used in this chapter, "intimidation" refers to intimidation under IC 35-45-2-1.

Sec. 2. As used in this chapter, "threat" has the meaning set forth in IC 35-45-2-1.

Sec. 3. In addition to any other duty to report arising under this article, an individual who has reason to believe that a school employee has received a threat or is the victim of intimidation shall report that information as required by this article.

Sec. 4. (a) If an individual who is required to make a report under this article is a member of the staff of a school, the individual shall make the report by immediately notifying the principal of the school that a school employee may have received a threat or may be the victim of intimidation.

(b) An individual who receives a report under subsection (a) shall immediately make a report or cause a report to be made under section 6 of this chapter.

Sec. 5. This chapter does not relieve an individual of the obligation to report a threat or intimidation on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

Sec. 6. A person who has a duty under this chapter to report that a school employee may have received a threat or may be the victim of intimidation shall immediately make an oral report to the local law enforcement agency.

Sec. 7. Except as provided in section 8 of this chapter, a person, other than a person accused of making a threat or intimidating a school employee, who:

(1) makes, or causes to be made, a report under this chapter; or

(2) participates in any judicial proceeding or other proceeding;

(A) resulting from a report under this chapter; or

1 **(B) relating to the subject matter of the report;**
 2 **is immune from any civil or criminal liability that might otherwise**
 3 **be imposed because of such actions.**

4 **Sec. 8. A person who has acted maliciously or in bad faith is not**
 5 **immune from civil or criminal liability under this chapter.**

6 **Sec. 9. A person making a report under this chapter or assisting**
 7 **in any requirement of this chapter is presumed to have acted in**
 8 **good faith.**

9 **SECTION 5. IC 20-10.1-30 IS ADDED TO THE INDIANA CODE**
 10 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
 11 **JULY 1, 2001]:**

12 **Chapter 30. Parental Declaration of Responsibilities**

13 **Sec. 1. This chapter applies to public schools.**

14 **Sec. 2. As used in this chapter, "declaration" refers to a**
 15 **parental declaration of responsibilities created under this chapter.**

16 **Sec. 3. The department shall do the following:**

17 **(1) Work with parent and teacher organizations to create a**
 18 **parental declaration of responsibilities that meets the**
 19 **requirements of this chapter.**

20 **(2) Work with parent and teacher organizations to**
 21 **periodically revise the declaration when the department**
 22 **considers revision necessary.**

23 **(3) Encourage schools and school corporations to adopt the**
 24 **declaration as a policy of the school or school corporation.**

25 **(4) Encourage parents at the beginning of each school year to**
 26 **agree in writing to carry out to the best of the parents'**
 27 **abilities the responsibilities set forth in the declaration.**

28 **Sec. 4. A parental declaration of responsibilities created under**
 29 **section 3 of this chapter must do the following:**

30 **(1) Reflect the policy that there is no adequate substitute for**
 31 **the involvement of a concerned and committed parent or**
 32 **family in the education of a child.**

33 **(2) Reflect the policy that a school should welcome and foster**
 34 **positive involvement in the school by parents and families.**

35 **(3) Encourage parents and families to become involved in the**
 36 **education of children.**

37 **(4) Reflect the following elements as among the most**
 38 **important elements of effective parental and family**
 39 **involvement in education:**

40 **(A) Regular, two-way, meaningful communication between**
 41 **parents and schools.**

42 **(B) Effective parenting skills exercised by parents for the**
 43 **benefit of their children, and fostered by schools.**

44 **(C) Parental involvement in student learning in which**
 45 **parents play an integral role in student learning by**
 46 **emphasizing the importance of education, and in which**
 47 **schools assist parents in this endeavor.**

(D) Volunteerism in which parents are welcomed by schools, and parents commit themselves to providing support to their children's schools as volunteers.

(E) School based decision making in which parents involve themselves in the educational decision making process at the school and school corporation level and are welcomed in that role by the schools.

(5) Identify the responsibilities of parents and families.

(6) Identify the responsibilities of schools in helping parents and families meet parental responsibilities as stated in the declaration.

(7) Include other elements of effective parental involvement that the department identifies.

SECTION 6. IC 31-37-19-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 28. (a) Whenever a court adjudicates a child to be a delinquent child, the court shall notify the superintendent of any public or nonpublic elementary or secondary school that the child attends of the adjudication and disposition of the case. The superintendent shall notify the principal of the elementary or secondary school.**

(b) Upon written request of an authorized representative of the school, the court, if the court considers it appropriate, may authorize the attorney for the county office of family and children to give the principal of the school a statement of the facts in the case.

(c) A principal who receives information under subsection (a) or (b):

(1) shall release the information to any employees of the school having responsibility for classroom instruction with the child; and

(2) may release the information to any school administrative, transportation, or counseling personnel and any teacher or school employee with whom the student may come in contact.

However, the information must otherwise remain confidential and may not become part of the child's school records.

SECTION 7. IC 31-39-2-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 16. The juvenile court shall grant a superintendent of a public or private school access to the records of a child as required under IC 31-37-19-28.**

SECTION 8. IC 31-39-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 17. (a) The juvenile court shall provide a superintendent of a public or private elementary or secondary school where a child is enrolled with the records of a child who is a danger to themselves or others.**

(b) Records shared with a school superintendent under subsection (a) shall be delivered to the school superintendent in a sealed envelop marked "confidential". The envelop must bear a legend that advises that the records contained in the envelop are to be maintained as confidential records. The records may be used by the school superintendent in furtherance of determining and developing programs to address the child's educational needs.

SECTION 9. IC 31-39-4-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 15. (a) The head of a law enforcement agency shall provide a superintendent of a public or private elementary or secondary school where a child is enrolled with the records of a child who is a danger to themselves or others.**

(b) Records shared with a school superintendent under subsection (a) shall be delivered to the school superintendent in a sealed envelop marked "confidential". The envelop must bear a legend that advises that the records contained in the envelop are to be maintained as confidential records. The records may be used by the school superintendent in furtherance of determining and developing programs to address the child's educational needs.

SECTION 10. IC 34-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. (a)** A judgment rendered with respect to or a settlement made by a governmental entity bars an action by the claimant against an employee whose conduct gave rise to the claim resulting in that judgment or settlement. A lawsuit alleging that an employee acted within the scope of the employee's employment must be exclusive to the complaint and bars an action by the claimant against the employee personally. However, if the governmental entity answers that the employee acted outside the scope of the employee's employment, the plaintiff may amend the complaint and sue the employee personally. An amendment to the complaint by the plaintiff under this subsection must be filed not later than one hundred eighty (180) days from the date the answer was filed and may be filed notwithstanding the fact that the statute of limitations has run.

(b) A lawsuit filed against an employee personally must allege that an act or omission of the employee that causes a loss is:

- (1) criminal;
- (2) clearly outside the scope of the employee's employment;
- (3) malicious;
- (4) willful and wanton; or
- (5) calculated to benefit the employee personally.

The complaint must contain a reasonable factual basis supporting the allegations.

(c) **Except as provided in subsection (d), and** subject to the provisions of sections 4, 14, 15, and 16 of this chapter, the governmental entity shall pay any judgment, compromise, or settlement of a claim or suit against an employee when:

(1) the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss; and

(2) the:

(A) governor in the case of a claim or suit against a state employee; or

(B) governing body of the political subdivision, in the case of a claim or suit against an employee of a political subdivision; determines that paying the judgment, compromise, or settlement is in the best interest of the governmental entity.

(d) Subject to sections 4 and 16 of this chapter, a school corporation shall pay any judgment, compromise, or settlement of a claim or suit against an employee when the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee may be held personally liable for the loss.

(e) The governmental entity shall provide counsel for and pay all costs and fees incurred by or on behalf of an employee in defense of a claim or suit for a loss occurring because of acts or omissions within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss.

~~(e)~~ **(f)** This chapter shall not be construed as:

(1) a waiver of the eleventh amendment to the Constitution of the United States;

(2) consent by the state of Indiana or its employees to be sued in any federal court; or

(3) consent to be sued in any state court beyond the boundaries of Indiana.

SECTION 11. IC 34-30-2-85.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 85.1. IC 20-8.1-12.5-7 (Concerning a person who reports or causes a report to be made of a threat against, or intimidation of, a school employee)."**

Page 2, line 5, strike "or".

Page 2, line 7, after "victim;" insert "**or**

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity;".

Page 2, after line 26, begin a new paragraph and insert:

"SECTION 13. IC 35-50-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 3.5. Release of Certain Criminal Records of a Child to a School the Child Attends

Sec. 1. Whenever a court convicts a child of an offense, the court shall notify the superintendent of any public or nonpublic school

1 that the child attends of the child's conviction and sentence for the
 2 offense. The superintendent shall notify the principal of the school.

3 **Sec. 2.** Upon written request of an authorized representative of
 4 the school, the court, if the court considers it appropriate, may
 5 authorize the prosecuting attorney to give the principal of the
 6 school a statement of the facts of the case.

7 **Sec. 3.** A principal who receives information under section 1 or
 8 2 of this chapter:

9 (1) shall release the information to employees of the school
 10 having responsibility for classroom instruction with the child;
 11 and

12 (2) shall release the information to employees of the school
 13 having responsibility for school safety.

14 **Sec. 4.** Information released under this chapter may not become
 15 part of the child's school records.

16 SECTION 14. [EFFECTIVE JULY 1, 2001] (a) To the extent that
 17 IC 20-6.1-6-1, as amended by this act, and IC 20-6.1-6-18, as added
 18 by this act, conflict with the terms of a collective bargaining
 19 agreement under IC 20-7.5, IC 20-6.1-6-1, as amended by this act,
 20 and IC 20-6.1-6-18, as added by this act, apply to a collective
 21 bargaining agreement that is entered into, amended, or renewed
 22 under IC 20-7.5 after June 30, 2001.

23 (b) The amendments to IC 35-45-2-1 made by this act apply only
 24 to offenses committed after June 30, 2001."

25 Renumber all SECTIONS consecutively.

(Reference is to ESB 33 as printed April 9, 2001.)

Representative Lawson L